

FILED & ENTERED

JUN 20 2014

CLERK U.S. BANKRUPTCY COURT
Central District of California
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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re

AVIS RICHELLE COPELIN,
Debtor.

Case No. 2:13-bk-32580-RK

Chapter 11

MEMORANDUM DECISION ON MOTION
FOR RECONSIDERATION OF ORDER
GRANTING RELIEF FROM STAY

On March 17, 2014, Avis Copelin (the "Debtor") filed a Motion for Reconsideration of Order Granting Relief From Stay (the "Motion"). Debtor's Motion came on for hearing on April 22, 2014 and May 6, 2014 before the undersigned United States Bankruptcy Judge. Appearances were as noted on the record.

The court hereby denies Debtor's Motion on grounds that although Debtor's motion for reconsideration of the court's stay relief order of March 5, 2014 as to 4629 Talofa Avenue, Los Angeles (Toluca Lake), CA, is timely under Fed. R. Bankr. P. 9023 and Fed. R. Civ. P. 59, the court determines that Debtor has not shown any grounds to warrant reconsideration of the order. See 10 Resnick and Sommer, *Collier on*

1 *Bankruptcy*, ¶ 9023.01 at 9023-1 – 9023-9 (16th ed. 2013). Most importantly, Debtor has
2 not shown that the stay relief order was erroneous. The party obtaining the stay relief
3 order was the purchaser at a foreclosure sale and thus had standing and a colorable
4 claim to enforce a right for possession to the subject property through a nonbankruptcy
5 unlawful detainer action. *In re Edwards*, 454 B.R. 100 (9th Cir. BAP 2011). Because the
6 bankruptcy case at the time of the hearing on the stay relief motion was in Chapter 7 as a
7 liquidation case and because the foreclosure took place before the bankruptcy case was
8 filed, the property was not arguably property of the bankruptcy estate, thus, cause was
9 shown under 11 U.S.C. § 362(d)(1) that the property was not part of the bankruptcy
10 estate due to the prepetition foreclosure sale, that debtor had no equity in the property
11 and the property was not needed for the Debtor's effective reorganization. Although the
12 case was converted to Chapter 11 and is now a reorganization case, that does not
13 change the fact that the court's ruling granting stay relief was correct when it was made
14 at the hearing on February 25, 2014 (the order was entered on March 5, 2014, the day
15 after the order for conversion was entered on March 4, 2014). Moreover, the evidence
16 offered by Debtor at the hearing on the motion for reconsideration does not constitute
17 "new" evidence sufficient to show that the property was and is property of the bankruptcy
18 estate on grounds that the foreclosure of the subject property was wrongful; the court has
19 considered the so-called "new" evidence and finds for the purposes of this motion that
20 such evidence is entitled to little, if any, weight in showing that the foreclosure was
21 wrongful. Debtor has filed an adversary proceeding for wrongful foreclosure in this court,
22 and the merits of such a claim remains to be determined in that proceeding. Otherwise,
23 Debtor has not shown other appropriate grounds for granting reconsideration of the stay
24 relief order. See 10 Resnick and Sommer, *Collier on Bankruptcy*, ¶ 9023.01 at 9023-1 –
25 9023-9.

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1 For the foregoing reasons, the court will deny Debtor's Motion for Reconsideration.

2 A separate order denying the motion will be filed and entered concurrently.

3 IT IS SO ORDERED.

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Date: June 20, 2014

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Robert Kwan
United States Bankruptcy Judge